

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 95

Introduced by Maxwell, 9

Read first time January 9, 2003

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to funeral directors and embalming; to amend
2 sections 71-605, 71-606, and 71-1339, Revised Statutes
3 Supplement, 2002; to change provisions relating to unborn
4 children; to harmonize provisions; and to repeal the
5 original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-605, Revised Statutes Supplement,
2 2002, is amended to read:

3 71-605. (1) The funeral director and embalmer in charge
4 of the funeral of any person dying in the State of Nebraska shall
5 cause a certificate of death to be filled out with all the
6 particulars contained in the standard form adopted and promulgated
7 by the Department of Health and Human Services Finance and Support.
8 Such standard form shall include a space for certificate of veteran
9 status and the period of service in the armed forces of the United
10 States as defined in section 80-401.01 and a statement of the cause
11 of death made by a person holding a valid license as a physician
12 who last attended the deceased. The standard form shall also
13 include the deceased's social security number. Death and fetal
14 death certificates shall be completed by the funeral directors and
15 embalmers and physicians for the purpose of filing with the
16 department and providing child support enforcement information
17 pursuant to section 43-3340.

18 (2) The physician shall have the responsibility and duty
19 to complete and sign in his or her own handwriting, within
20 twenty-four hours from the time of death, that part of the
21 certificate of death entitled medical certificate of death. In the
22 case of a death when no person licensed as a physician was in
23 attendance, the funeral director and embalmer shall refer the case
24 to the county attorney for a death certificate.

25 No cause of death shall be certified in the case of the
26 sudden and unexpected death of a child between the ages of one week
27 and three years until an autopsy is performed at county expense by
28 a qualified pathologist pursuant to section 23-1824. The parents

1 or guardian shall be notified of the results of the autopsy by
2 their physician, community health official, or county coroner
3 within forty-eight hours. The term sudden infant death syndrome
4 shall be entered on the death certificate as the principal cause of
5 death when the term is appropriately descriptive of the pathology
6 findings and circumstances surrounding the death of a child.

7 If the circumstances show it possible that death was
8 caused by neglect, violence, or any unlawful means, the case shall
9 be referred to the county attorney for investigation and
10 certification. The county attorney shall, within twenty-four hours
11 after taking charge of the case, state the cause of death as
12 ascertained, giving as far as possible the means or instrument
13 which produced the death. All death certificates shall show
14 clearly the cause, disease, or sequence of causes ending in death.
15 If the cause of death cannot be determined within the period of
16 time stated above, the death certificate shall be filed to
17 establish the fact of death. As soon as possible thereafter, and
18 not more than six weeks later, supplemental information as to the
19 cause, disease, or sequence of causes ending in death shall be
20 filed with the department to complete the record. For all
21 certificates stated in terms that are indefinite, insufficient, or
22 unsatisfactory for classification, inquiry shall be made to the
23 person completing the certificate to secure the necessary
24 information to correct or complete the record.

25 (3) A completed death certificate shall be filed with the
26 Department of Health and Human Services Finance and Support within
27 five business days after the date of death. If it is impossible to
28 complete the certificate of death within five business days, the

1 funeral director and embalmer shall notify the department of the
2 reason for the delay and file the certificate as soon as possible.

3 (4) Before any dead human body may be cremated, a
4 cremation permit shall first be signed by the county attorney, or
5 by his or her authorized representative as designated by the county
6 attorney in writing, of the county in which the death occurred on a
7 form prescribed and furnished by the Department of Health and Human
8 Services Finance and Support.

9 (5) A permit for disinterment shall be required prior to
10 disinterment of a dead human body. The permit shall be issued by
11 the Department of Health and Human Services Finance and Support to
12 a licensed funeral director and embalmer upon proper application.
13 The request for disinterment shall be made by the next of kin of
14 the deceased, as listed in section 71-1339, or a county attorney on
15 a form furnished by the department. The application shall be
16 signed by the funeral director and embalmer who will be directly
17 supervising the disinterment. When the disinterment occurs, the
18 funeral director and embalmer shall sign the permit giving the date
19 of disinterment and file the permit with the department within ten
20 days of the disinterment.

21 (6) When a request is made under subsection (5) of this
22 section for the disinterment of more than one dead human body, an
23 order from a court of competent jurisdiction shall be submitted to
24 the Department of Health and Human Services Finance and Support
25 prior to the issuance of a permit for disinterment. The order
26 shall include, but not be limited to, the number of bodies to be
27 disinterred if that number can be ascertained, the method and
28 details of transportation of the disinterred bodies, the place of

1 reinterment, and the reason for disinterment. No sexton or other
2 person in charge of a cemetery shall allow the disinterment of a
3 body without first receiving from the department a disinterment
4 permit properly completed.

5 (7) No dead human body shall be removed from the state
6 for final disposition without a transit permit issued by the
7 funeral director and embalmer having charge of the body in
8 Nebraska, except that when the death is subject to investigation,
9 the transit permit shall not be issued by the funeral director and
10 embalmer without authorization of the county attorney of the county
11 in which the death occurred. No agent of any transportation
12 company shall allow the shipment of any body without the properly
13 completed transit permit prepared in duplicate.

14 (8) Except as provided in subdivision (2)(c) of section
15 71-1339, the ~~The~~ interment, disinterment, or reinterment of a dead
16 human body shall be performed under the direct supervision of a
17 licensed funeral director and embalmer. ~~7 except that hospital~~
18 ~~disposition may be made of the dead human body of a stillborn~~
19 ~~infant with due respect for the stillborn infant and in accordance~~
20 ~~with existing law when requested by the parents or legal guardian.~~

21 (9) All transit permits issued in accordance with the law
22 of the place where the death occurred in a state other than
23 Nebraska shall be signed by the funeral director and embalmer in
24 charge of burial and forwarded to the Department of Health and
25 Human Services Finance and Support within five business days after
26 the interment takes place.

27 Sec. 2. Section 71-606, Revised Statutes Supplement,
28 2002, is amended to read:

1 71-606. A child born dead shall be registered as a fetal
2 death on a certificate form furnished by the Department of Health
3 and Human Services Finance and Support. Such certificate shall not
4 be required for a child which has not advanced to the twentieth
5 week of gestation. The certificate shall be filed with the
6 department by the funeral director and embalmer in charge of the
7 funeral and shall include a statement of the cause of death made by
8 a person holding a valid license as a physician who was in
9 attendance. In the event of hospital disposition, as provided in
10 ~~section 71-605~~ subdivision (2)(c) of section 71-1339, the entire
11 certificate shall be completed by the attending physician and
12 subscribed to also by the hospital administrator or his or her
13 designated representative. If the attendant is not a physician,
14 the death shall be referred to the county attorney for
15 certification. The same time limit for completion shall apply as
16 for a regular death certificate.

17 Sec. 3. Section 71-1339, Revised Statutes Supplement,
18 2002, is amended to read:

19 71-1339. (1) Except as provided in subsection (2) of
20 this section, the ~~The~~ right to control the disposition of the
21 remains of a deceased person, subject to section 23-1824 and unless
22 other directions have been given by the decedent, vests in the
23 following persons in the order named: ~~(1)~~ (a) The surviving
24 spouse; ~~(2)~~ (b) if the surviving spouse is incompetent or not
25 available, or if there be no surviving spouse, adult child of the
26 decedent; ~~(3)~~ (c) a surviving parent of the decedent; ~~(4)~~ (d) an
27 adult brother or sister of the decedent; ~~(5)~~ (e) an adult person in
28 the next degrees of kindred in the order named by the laws of

1 Nebraska as entitled to succeed to the estate of the decedent; ~~(6)~~
2 (f) the State Anatomical Board; or ~~(7)~~ (g) the county board of the
3 county in which death occurred.

4 (2) (a) In every instance of the death of an unborn child,
5 the right to control the disposition of the remains, subject to
6 section 23-1824 and other applicable laws, shall vest in the
7 following persons in the order named: (i) A surviving parent of
8 the unborn child; (ii) an adult brother or sister of the unborn
9 child; (iii) an adult person in the next degrees of kindred in the
10 order named by the laws of Nebraska as entitled to succeed to the
11 estate of the unborn child; (iv) the State Anatomical Board; or (v)
12 the county board of the county in which death occurred.

13 (b) Such person or persons named in subdivision (2) (a) of
14 this section shall be informed of the right to control disposition
15 of the remains at the time the dead unborn child is delivered.

16 (c) Disposition of the remains by a hospital or by the
17 physician of the dead unborn child's mother may be made, with due
18 respect for the unborn child and in accordance with law, when
19 requested by such person or persons named in subdivision (2) (a) of
20 this section or within seven days when no decision has been made.

21 (d) The hospital or physician may perform any tests
22 required by law on the remains of the dead unborn child before
23 release of the remains.

24 (e) For purposes of this subsection, unborn child means
25 an individual member of the species Homo sapiens, at any stage of
26 development in utero.

27 (3) The liability for the reasonable cost of interment
28 devolves jointly and severally upon all kin of the decedent in the

1 same degree of kindred and upon the estate of the decedent and, in
2 cases when the county board has the right to control disposition of
3 the remains under subdivision ~~(7)~~ (1)(g) or (2)(a)(v) of this
4 section, upon the county in which death occurred from funds
5 available for such purpose.

6 Sec. 4. Original sections 71-605, 71-606, and 71-1339,
7 Revised Statutes Supplement, 2002, are repealed.